



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
**ATTORNEY GENERAL**

September 7, 1961

Honorable Ward W. Markley  
County Attorney  
Jasper County  
Jasper, Texas

Opinion No. WW-1136

Re: Whether Article 6573a,  
Vernon's Civil Statutes,  
would require the  
Chamber of Commerce of  
Jasper, Texas, to obtain  
a real estate license  
before it could handle  
real estate listings  
for rentals and sale  
of property.

Dear Mr. Markley:

Your request for an opinion concerns the Chamber of Commerce of the City of Jasper, Texas, which has from time to time provided real estate listings for its members and other citizens of the City. You state that the Chamber of Commerce does not receive any direct compensation for this service; that any benefit accruing in favor of the Chamber of Commerce is in the form of "good will" resulting from the operation of the listing service for the benefit of the community without charge.

In view of the foregoing circumstances, you ask whether Article 6573a, Vernon's Civil Statutes, would require the Chamber of Commerce to obtain a real estate license before it could provide real estate listings for both the sale and rental of real estate.

Article 6573a is known as the Real Estate License Act. Section 3 of Article 6573a requires that a real estate broker or real estate salesman obtain a license. This Section of the Act provides as follows:

"From and after the effective date of this Act it shall be unlawful for any person, partnership, association or corporation to engage in or carry on directly or indirectly, or to advertise or hold himself, itself, or themselves out as engaging in, or carrying on, the business, or to perform any act of a Real Estate Broker or a Real Estate Salesman, as here-

in defined, within this State, without first obtaining a license as a Real Estate Broker or Real Estate Salesman as provided for in this Act."

Section 4, Article 6573a of the Real Estate License Act is entitled "Definitions." The term "Real Estate Broker" is defined in paragraph (1) as follows:

"The term 'Real Estate Broker' shall mean and include any person who, for another or others and for compensation or with the intention or in the expectation or upon the promise of receiving or collecting compensation:"

Here follows an alphabetical listing of specific acts which constitute brokerage. The two provisions most pertinent to our discussion are set out below:

". . .

"(d) Lists or offers or attempts or agrees to list real estate for sale, rental, lease, exchange or trade;

". . .

"(j) Procures or assists in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate; . . ."

Also Paragraph 6 of Section 4 defines the word "person" to "mean and include any individual, firm, partnership, association or corporation." (Emphasis added.) The Chamber of Commerce would be a person as per the definition above, for it is clearly an association. Black's Law Dictionary, Fourth Edition, defines the term "association" as follows:

". . . It is a word of vague meaning used to indicate a collection of persons who have joined together for a certain object.  
. . ."

In addition, Paragraph 5 of Section 4 defines the word "compensation" as follows:

"The word 'compensation' shall mean and include any fee, commission, salary, money or valuable consideration, as well as the promise thereof and whether contingent or otherwise."

The Chamber of Commerce of Jasper has never received any payment of money or other valuable consideration for the service of securing prospects and listing property. The only benefit, if any, the Chamber of Commerce derives from providing this service is the good will it acquires for itself from the community. The value of this good will in this instance is impossible to assess and translate into a money consideration as it is contemplated by the definition of compensation.

Finally, Section 6 of the Act is entitled "Exemptions." Paragraph 1 of this Section contemplates the following wording:

"The provisions of this Act shall not apply to the advertising, negotiation or consummation of any purchase, sale, rental or exchange of, or the borrowing or lending of money on, real estate by any person, firm, or corporation when such person, firm or corporation does not engage in the activities of a Real Estate Broker as an occupation, business or profession on a full or part-time basis."

Black's Law Dictionary, Fourth Edition, states that the term "business" embraces the following:

- a) "Activity or enterprise for gain, benefit, advantage or livelihood."
- b) "... employment, occupation or profession for gain or livelihood."

As herein discussed, if the Chamber of Commerce gains or otherwise benefits from securing prospects and listing property for real estate transactions, it is intangible in nature and not in the monetary sense as the Act contemplates.

Thus, it is our opinion that the Chamber of Commerce of Jasper, Texas, although it secures prospects and lists property for real estate transactions, is not a real estate broker as defined by the Real Estate License Act. This is

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because the Chamber of Commerce does not receive any compensation for this service as the term is defined in the Act. Therefore, it is our opinion that the Chamber of Commerce of the City of Jasper, Texas, is not required and is exempt from having to obtain a real estate license under the facts presented.

S U M M A R Y

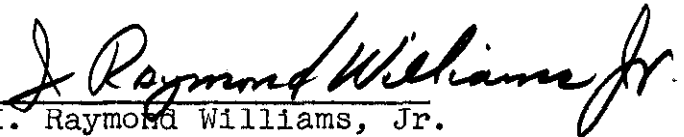
The Chamber of Commerce of Jasper, Texas, may handle real estate listings for the sale and rental of property, and it is not required and is exempt from having to obtain a real estate broker's license under Article 6573a, Vernon's Civil Statutes.

Yours very truly,

WILL WILSON  
Attorney General of Texas

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By

  
I. Raymond Williams, Jr.  
Assistant

APPROVED:

OPINION COMMITTEE  
W. V. Geppert, Chairman

William E. Allen  
Gordon C. Cass  
Robert T. Lewis  
Jack Goodman

REVIEWED FOR THE ATTORNEY GENERAL  
BY: Howard W. Mays